4.0 PRIME CONTRACTOR UTILIZATION, AVAILABILITY, AND DISPARITY ANALYSIS

4.0 PRIME CONTRACTOR UTILIZATION, AVAILABILITY AND DISPARITY ANALYSES

This chapter presents the results of MGT of America, Inc.'s (MGT) analysis of the state of Texas prime procurement activity occurring between the period of September 1, 2005 and August 31, 2008 (fiscal year 2006 through fiscal year 2008). In this chapter we analyze the utilization of firms by the state of Texas institutions in comparison to the availability of firms to do business with those institutions.

It is important to recognize that the state of Texas has no historically underutilized business (HUB) prime contractor procurement set asides. Instead the state encourages the utilization of HUBs in prime contracts through its extensive outreach activities, presented in the state's annual HUB report and discussed in part in **Chapter 3.0**.

This chapter consists of the following sections:

4.1 Utilization Data Collection and Management
4.2 Availability Data Collection and Management
4.3 Prime Contractor Utilization
4.4 Prime Contractor Availability
4.5 Prime Contractor Disparity Analyses
4.6 Conclusions

This chapter presents a large number of tables, but an even larger number of supplementary tables are presented in the appendices to this report.

4.1 *Utilization Data Collection and Management*

This section presents the methodology for the collection of data and analysis of utilization, of minority-, woman-, and nonminority-owned firms for this study. The descriptions of business categories, agency classification and minority- and woman-owned business enterprise and HUB classifications are also presented in this section.

4.1.1 *Business Categories*

The state's utilization and availability of HUBs was analyzed for six business categories: heavy construction, building construction, special trade construction, professional services, other services, and commodities. These categories were selected to match the current classification by the state of Texas, which resulted from the 1994 state of Texas Disparity Study (1994 Texas Disparity Study). The object codes that fall into these business categories are contained in **Appendix C**.

4.1.2 HUB Classifications

In this study, businesses (including corporations and partnerships) classified as HUBs are firms at least 51 percent owned and controlled by members of "economically disadvantaged groups" which include: African Americans-, Hispanic Americans-, Asian Americans-, Native Americans-, and nonminority women-owned firms. This report follows the State policy and practice of defining those groups. This study defines non-HUBs to include firms owned by nonminority males and publicly traded corporations. This study uses the term M/WBE to refer to all minority and woman owned firms, regardless of whether they were certified with the state of Texas as a HUB.

4.1.3 Agency Classification

Much of the analysis in this study of Texas state institutions is classified into agency groups:

- Texas State Agencies (State Agencies),
- Texas Department of Transportation (TxDOT),
- State Medical Institutions (Medical Institutions)
- State Institutions of Higher Learning (Universities).[1]

There are several reasons for this grouping of agencies. TxDOT receives large levels of federal funding with Disadvantaged Business Enterprise (DBE) requirements and the state includes HUB spending through the DBE program as part of its HUB report. TxDOT also has very specialized and large scale prime contracting. Medical institutions and universities also receive significant amount of non-Treasury funds and revenue. Medical institutions have much more specialized purchases and large dollar volume of spending. The remainder of Texas state agencies are grouped separately into the category State Agencies. Individual agency reports are contained in **Appendix A** of this report.

4.1.4 Collection and Management of the Data

Data assessment interviews were conducted with state of Texas staff and a data assessment survey of Texas state institutions for data assessment was conducted. The data assessment survey instructions are included in **Appendix L**. Data was kept in many inconsistent formats across state agencies. Electronic procurement data within the study period for all business categories was collected from State Institutions and the Comptroller of Public Accounts (CPA). The data contained more than 2.6 million records. The study relied primarily on treasury and non-treasury data provided by the CPA. Utilization data also included delegated, procurement cards, open market, term contract, proprietary, group purchases, emergency, and exempt purchases.[2] The analysis of procurement cards, term contracts and group purchases is located in **Appendix B**.

The prime data studied for this report is comprehensive and includes all state institutions and procurements of all sizes. Some records were excluded as not relevant to the study.

[1] The term Universities includes State colleges and universities.

[2] Delegated purchase are made by a State agency under CPA authority and subject to CPA rules. Term contracts specify a supply source for particular goods at a particular price for a specific period of time. The group purchasing program offers discount prices to two or more institutions of higher education. All definitions are from the glossary to the State Purchasing Manual.

Examples of procurement activity excluded from analysis include duplicate procurement records; contracts out of the time frame of the study; contracts awarded to nonprofits and government entities; interfund transfers and utility payments such as water, gas, and electricity.[3] The exclusions were consistent with the 1994 Texas Disparity Study. Object codes were either completely included or excluded. Agencies are encouraged to report excluded HUB codes spending in supplemental letters that are published in the annual state HUB reports. Data assessment interviews with agency staff indicated that there was HUB spending in some of these excluded object codes. One important example is client services with the Texas Health and Human Services Commission (HHSC). The list of included object codes is in **Appendix C** to this report.

The other major exclusion from the data is subcontracting dollars. To avoid double counting subcontract dollars were removed from the prime contract dollars. HUB subcontracting utilization is presented in **Chapter 5.0**.

4.2 Availability Data

There is no single approach to estimating relative business availability that has been adopted by the post-*Croson* case law as a whole or by the Fifth Circuit in particular.[4] In general the case law has emphasized firms being qualified, willing and able to pursue work with an agency. However, there is in general no single data source that captures all these features. The 1994 State of Texas Disparity Study relied primarily on census data to estimate relative HUB availability. This study presents several measures of business availability, including bids, bidders, prequalified firms, census, vendors and "custom census." The study also reports capacity evidence where available as measured by pre-qualification, revenue and employment, bonding, and size of procurement. Statistical controls for capacity are presented in several chapters of the report.

4.2.1 Census Data

The 1994 Texas Disparity Study used census data to estimate availability, primarily the Surveys of Minority- and Women-Owned Business Enterprises (S/M/OBE/S/W/OBE) and county business patterns. This chapter reports availability estimates based on the Survey of Business Owners (SBO), which is a consolidation of two prior surveys, the S/M/OBE/S/W/OBE, and includes questions from a survey discontinued in 1992 on Characteristics of Business Owners (CBO).The SBO is part of the economic Census, which is conducted every five years. The SBO findings are based on the characteristics of U.S. businesses by ownership category, by geographic area; by 2-digit industry sector based on the 2002 North American Industry Classification System (NAICS); and by size of firm (employment and receipts). A special data request was submitted to the U.S. Census Bureau so that the census estimates more clearly match State procurement categories (such as heavy construction, building construction and special trades) and to obtain more detailed availability estimates than were available in the published census data.

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[3] MGT found that inter-agency payments are current part of the CPA Annual HUB Report data.
[4] *See for example*, *Scott v. City Of Jackson*, 199 F.3d 206 (5th Cir 1999).

The primary limits of the 2002 SBO for the purposes of this study are that: (1) the data is the least current of the availability sources, (2) SBO does not indicate whether the firm is interested in work with state of Texas agencies, (3) SBO does not indicate whether a firm is primarily a subcontractor or prime contractor, and (4) SBO does not provide data on individual firms.

4.2.2 Bid and Bidder Data

Outside of TxDOT and a few other agencies the state of Texas does not maintain a list of bidders. However, the CPA does require all state agencies to report bids, quotes, offers and proposals submitted for the purchase of goods and services. The number of bids and proposals includes open market bids, informal and formal bids, Request for Proposals (RFPs), term contract bids, catalogue information systems vendor bids, proprietary bids, scheduled purchase bids and emergency bids. The primary limitations of the bids data for purposes of this study is that the data is not broken out by procurement category and there is not data on individual firms that bid.

TxDOT prime availability is crucial because, TxDOT prime utilization is a significant proportion of state prime spending. TxDOT provided a list of prequalified firms and prequalified bidders in construction. An applicant for TxDOT prequalification must fill out a questionnaire and meet bonding requirements for projects of greater than $300,000. Prequalified bidders comes the closest to measuring firms qualified, willing and able to pursue work with an agency. However, while on one hand some firms may be qualified, willing and able, but feel dissuaded from pursuing opportunities with an agency, on the other hand, most prequalified firms did not bid on TxDOT projects.

The University of Texas (UT) System also provided a list of bidders. This data was not broken out by procurement type. UT bidder tables are located in **Appendix J**.

4.2.3 Vendor Data

There is case law where studies estimating availability based on vendor data have been upheld in federal court.[5] The Texas Centralized Master Bidders List (CMBL) is the vendor database used by state of Texas that serves as a vendor mailing list. State statute requires that bid invitations and RFPs be transmitted to vendors through the CMBL.[6] TxDOT and universities are exempt from this requirement. However, universities are encouraged to use the CMBL.[7] Agencies can also seek a waiver from soliciting only from the CMBL.[8] The CMBL annual registration fee is $70.00. Vendors can be administratively removed from the CMBL for failure to pay registration, or fines, or other factors listed in the Texas state code. Vendors are classified in the CMBL by commodity codes and state highway districts.

The CMBL is the natural starting point for estimating vendor availability. There are several limits, however, to CMBL for purposes of this study. First, many HUBs and DBEs are not registered with the CMBL. Second, many awardees are not registered with the CMBL. MGT found that less than 5 percent of awardees were listed in the CMBL. Some

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[5] *H.B.Rowe v. North Carolina DOT*, 589 FSupp.2d 587 (ED NC 2008).
[6] Texas Government Code §113.4.
[7] Texas Government Code §113.4(g).
[8] Texas Government Code §113.4(h).

of this is clearly due to the fact that TxDOT and universities are not required to use the CMBL. Third, CMBL does not indicate whether a firm is primarily a subcontractor or prime contractor.

To provide additional estimates of vendor availability, that is, those firms that affirmatively took steps to work on state projects, the HUB list and the DBE list were added to the CMBL list. Next the list of awardees was added to the list of firms that registered to do business with the state.

4.2.4 Custom Census

Some cases have allowed what is known as "custom census" as a source of business availability.[9] Custom census essentially involves using Dun & Bradstreet as a source of business availability. Dun & Bradstreet has the advantage over SBO data in that the information is current and Dun & Bradstreet contains data on individual firms, including firm revenue, number of employees and specific areas of work. The limits of Dun & Bradstreet are that: (1) the ethnic/gender identification are weak, (2) Dun & Bradstreet does not indicate whether the firm is interested in work with Texas state institutions, and (3) Dun & Bradstreet does not indicate whether a firm is primarily a subcontractor or prime contractor. This study addressed those deficiencies by conducting a short survey of a random sample of firms supplied by Dun & Bradstreet in construction, other services and professional services.

The first step in the survey was to collect a random sample of firms from Dun & Bradstreet in these three procurement areas. Six digit NAICS codes were selected to eliminate procurement areas that were not used to solicit from for profit vendors by state of Texas agencies. Categories were lined up to match the current state of Texas classification. Many services that are thought of as professional services, for example, for U.S. Census Bureau data are classified as other services by the state of Texas. These firms were then surveyed. The sample frame was a sample of 7,500 firms in the procurement categories. There were over 800 completed surveys for each procurement category.

The firms were asked:

- Ethnic and gender status,
- Had they bid or considered bidding on projects by state of Texas agencies,
- Had they bid or considered bidding as prime or subcontractor or both,
- Construction firms were asked whether they were interested in transportation related projects.

The availability survey instrument custom census results are presented in **Appendix I**.

[9] *Northern Contracting v. Illinois DOT*, 2005 U.S. Dist. LEXIS 19868 (ND IL 2005).

4.2.5 Capacity Data

There is limited direct information on business capacity of firms seeking opportunities maintained by the state. There is no capacity information on CMBL vendors as a whole. The state stopped tracking the revenue of HUB vendors before the study period for this report. The following capacity information is provided in this study:

- Prequalified TxDOT prime vendors have to demonstrate capacity to perform TxDOT prime contracts,
- Firms demonstrate capacity the size of annual payments to firms,
- Firms reported capacity data to Dun & Bradstreet that is included in this study,
- Firms reported capacity data to the U.S. Small Business Administration Central Contract Registry,
- Firms reported capacity information in response to the survey conducted for this study, and
- Firms demonstrate capacity by submitting bids.

4.3 Prime Utilization

4.3.1 Results from 1994 Disparity Study

The 1994 Texas Disparity Study shows that over $959.96 million was spent with HUB prime vendors during fiscal years (FY) 1992 through 1993, 8.64 percent of the total (**Exhibit 4-1**). The largest area of HUB spending in dollar terms was construction, $600.74 million. The largest procurement category in percentage terms was professional services, at 11.60 percent.

EXHIBIT 4-1
STATE OF TEXAS
UTILIZATION ANALYSIS OF PRIME VENDORS
1994 TEXAS DISPARITY STUDY
BY HUB STATUS AND PROCUREMENT TYPE
FISCAL YEARS 1992 THROUGH 1993

	FY 1992-93		
	HUB	**%**	**Total**
Construction	$600,745,780	8.00%	$7,509,322,251
Professional Services	$48,689,057	11.60%	$419,733,246
Other Services	$100,084,804	9.70%	$1,031,802,102
Commodities	$210,448,505	9.80%	$2,147,433,721
Total	**$959,968,145**	**8.64%**	**$11,108,291,320**

Source: NERA, 1994 State of Texas Disparity Study, Exhibits 3.4, 3.6

4.3.2 Overall Prime Utilization

Dollar Utilization

Overall, the state made payments of over $38.62 billion to HUB and non-HUB vendors throughout the study period (**Exhibit 4-2)**. Of the $38.62 billion, non-HUB vendors received close to $35.7 billion, for 92.4 percent of the overall payments. HUB vendors received over $2.95 billion of the overall payments, receiving 7.6 percent. This is a substantial increase in total annual state spending with HUBs, but a percentage decline in HUB prime utilization since the 1994 Texas Disparity Study. However, the dollar value and percentages are not fully comparable to this study because the 1994 Texas Disparity Study only covered seven agencies and limited the prime analysis to contracts for firms located in the state of Texas. Of the HUB vendors, nonminority women-owned vendors were the most successful with 3.9 percent of the total payments, followed by Hispanic Americans receiving 2.1 percent, and African Americans receiving 0.63 percent. HUB vendors were the most successful in receiving payments in the FY2008, receiving 8.3 percent of the payments.

HUB percentage utilization was much higher for certain forms of procurement. HUB percentage utilization was 74.60 percent of procurement card purchases and 17.57 percent of Department of Information Resources (DIR) purchases (**Appendix B**). For other procurement methods HUB percentage utilization was lower than the state average, 6.13 percent for term contracts and 6.83 percent for group purchases (**Appendix B**).

EXHIBIT 4-2
STATE OT TEXAS
UTILIZATION OF PRIME VENDORS
PAYMENTS AND PERCENT OF TOTAL DOLLARS
BY RACE/ETHNICITY/GENDER
FISCAL YEARS 2006 THROUGH 2008

	African American		Asian American		Hispanic American		Native American		Nonminority Women		HUB		Non-HUB		Total
	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$
2006	$ 78,225,993	0.64%	$ 126,355,488	1.03%	$ 221,692,524	1.81%	$ 7,565,467	0.06%	$ 430,907,439	3.52%	$ 864,746,911	7.07%	$ 11,361,414,382	92.93%	$ 12,226,161,293
2007	$ 76,250,460	0.59%	$ 119,944,227	0.92%	$ 282,553,058	2.18%	$ 6,459,796	0.05%	$ 489,341,549	3.77%	$ 974,549,089	7.51%	$ 11,996,362,471	92.49%	$ 12,970,911,560
2008	$ 87,222,629	0.65%	$ 130,037,033	0.97%	$ 305,745,335	2.28%	$13,562,554	0.10%	$ 574,894,774	4.28%	$ 1,111,462,325	8.28%	$ 12,313,547,888	91.72%	$ 13,425,010,213
Overall Total	**$ 241,699,081**	**0.63%**	**$ 376,336,748**	**0.97%**	**$ 809,990,917**	**2.10%**	**$27,587,817**	**0.07%**	**$ 1,495,143,762**	**3.87%**	**$ 2,950,758,326**	**7.64%**	**$ 35,671,324,740**	**92.36%**	**$ 38,622,083,066**

Source: State of Texas CPA procurement data between fiscal years 2006 and 2008.
[1] Percent of total dollars paid annually to prime vendors.

Number of Prime Vendors Utilized

Exhibit 4-3 presents the number of prime vendors utilized by the state of Texas over the study period. A total of 5,713 HUB prime vendors were utilized between fiscal years 2006 and 2008. Therefore, approximately 9.6 percent of the vendors were HUB and won a prime award over the study period. On average HUB prime vendors won $516,498 over the study period. Nonminority women-owned firms were the highest number of utilized HUB vendors (2,894 vendors) followed by 1,642 vendors owned by Hispanic Americans.

EXHIBIT 4-3
STATE OF TEXAS
NUMBER OF PRIME VENDORS UTILIZED
BY RACE/ETHNICITY/GENDER
FISCAL YEARS 2006 THROUGH 2008

	African American		Asian American		Hispanic American		Native American		Nonminority Women		HUB Total		Non-HUB		Total
	#	%[1]	#	%[1]	#	%[1]	#	%[1]	#	%[1]	#	%[1]	#	%[1]	#
Number of Prime Vendors	700	1.18%	368	0.62%	1,642	2.76%	109	0.18%	2,894	4.86%	5,713	9.60%	53,811	90.40%	59,524

Source: State of Texas CPA procurement data between fiscal years 2006 and 2008.
[1] Percent of total prime vendors utilized

4.3.3 HUB Prime Utilization by Agency Group

Over the study period, the largest agency group in terms of prime dollars was TxDOT. There was a total of $18.7 billion let on TxDOT projects, nearly half of the state prime spending over the study period (**Exhibit 4-4**). The next largest amount was spent with state agencies, followed by universities, and then medical institutions.

Universities had the largest HUB prime utilization in absolute and relative terms. The universities spent close to $7 billion over the study period, letting 12.9 percent to HUB vendors ($896.9 million). Nonminority women-owned firms were the most successful HUB group receiving 7.2 percent ($505 million), followed by Hispanic American-owned firms acquiring 2.9 percent ($203.2 million).

Of the $18.7 billion TxDOT spent on procurements during the study period, non-HUB vendors received 95.5 percent ($17.9 billion), while HUBs received 4.5 percent ($835.4 million). Hispanic American-owned firms were the most successful HUB group, receiving $366.1 million (almost 2%), followed by nonminority women-owned vendors receiving $333.6 million (1.8%). Overall the other agencies outside of TxDOT averaged 10.43 percent HUB utilization.

Of the $7.4 billion spent by state agencies, nonminority women-owned firms were the most successful HUB group, receiving $432.5 million (5.9%), followed by Hispanic American- and Asian American-owned vendors, both receiving almost 2 percent. However, non-HUB vendors received 89.4 percent overall.

Of the $5.6 billion spent by the medical institutions, HUBs received 7.8 percent ($434.8 million), of which nonminority women-owned vendors received 4.0 percent and Hispanic American-owned vendors received 1.7 percent.

EXHIBIT 4-4
STATE OF TEXAS
UTILIZATION OF PRIME VENDORS
PAYMENTS AND PERCENT OF TOTAL DOLLARS
BY RACE/ETHNICITY/GENDER AND AGENCY GROUP
FISCAL YEARS 2006 THROUGH 2008

	African American		Asian American		Hispanic American		Native American		Nonminority Women		HUB		Non-HUB		Total Dollars
	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$
State Agencies	$ 53,456,146	0.73%	$ 139,733,813	1.90%	$ 146,894,780	1.99%	$ 10,980,675	0.15%	$ 432,486,598	5.87%	$ 783,552,012	10.63%	$ 6,585,245,578	89.37%	$ 7,368,797,589
Universities	$ 87,336,613	1.25%	$ 92,986,586	1.33%	$ 203,207,147	2.91%	$ 8,208,988	0.12%	$ 505,194,033	7.24%	$ 896,933,367	12.85%	$ 6,085,253,257	87.15%	$ 6,982,186,624
Medical Institutions	$ 67,393,101	1.21%	$ 46,889,445	0.84%	$ 93,779,650	1.69%	$ 2,903,704	0.05%	$ 223,865,473	4.02%	$ 434,831,372	7.82%	$ 5,127,592,060	92.18%	$ 5,562,423,432
TxDOT	$ 33,513,221	0.18%	$ 96,726,904	0.52%	$ 366,109,341	1.96%	$ 5,494,450	0.03%	$ 333,597,658	1.78%	$ 835,441,575	4.47%	$ 17,873,233,846	95.53%	$ 18,708,675,421
Total	**$ 241,699,081**	**0.63%**	**$ 376,336,747**	**0.97%**	**$ 809,990,918**	**2.10%**	**$ 27,587,817**	**0.07%**	**$ 1,495,143,762**	**3.87%**	**$ 2,950,758,325**	**7.64%**	**$ 35,671,324,740**	**92.36%**	**$ 38,622,083,066**

Source: State of Texas CPA procurement data between fiscal years 2006 and 2008.
[1] Percent of total dollars paid to prime vendors.

4.3.4 Prime Utilization by Procurement Type

The state of Texas let contracts in heavy construction, building construction, special trade, professional services, other services, and commodities. Of the six procurement types, the largest dollar contracts were let in the heavy construction category, $15.8 billion (**Exhibit 4-5**). In the heavy construction category, HUBs won $392.1 million, 2.5 percent of total spending in heavy construction. The relatively low prime utilization of HUBs in heavy construction combined with the large share of heavy construction in state spending is a major explanation of the low percentage HUB prime utilization. HUB utilization outside of heavy construction was 11.1 percent ($2.6 billion of $22.8 billion) over the study period.

In heavy construction, Hispanic American-owned firms were the most successful HUB group, receiving 1.3 percent ($196.5 million) of the overall total for heavy construction, followed by nonminority women-owned firms with 1.1 percent ($174.6 million).

Commodities were the second largest procurement category in spending by the state at $9.2 billion. HUB vendors received $1.1 billion of the overall $9.2 billion spent by the state for commodities. Commodities were the largest procurement category for HUB spending by the state at 37 percent ($1.10 billion of $2.95 billion) of total state spending with HUBs. The most successful HUB group in the commodities procurement category was nonminority women-owned firms, receiving $568.1 million (6.2%). Hispanic American-owned firms were next with $249.3 million (2.7%).

EXHIBIT 4-5
STATE OF TEXAS
UTILIZATION OF PRIME VENDORS
PAYMENTS AND PERCENT OF TOTAL DOLLARS
BY RACE/ETHNICITY/GENDER AND PROCUREMENT CATEGORY
FISCAL YEARS 2006 THROUGH 2008

	African American		Asian American		Hispanic American		Native American		Nonminority Women		HUB		Non-HUB		Total Dollars
	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$
Heavy Construction	$ 5,346,256	0.03%	$ 14,835,751	0.09%	$ 196,485,079	1.24%	$ 822,262	0.01%	$ 174,582,831	1.10%	$ 392,072,179	2.48%	$ 15,443,726,309	97.52%	$ 15,835,798,488
Building Construction	$ 5,963,406	0.18%	$ 12,250,225	0.38%	$ 65,495,031	2.02%	$ 155,889	0.00%	$ 99,395,814	3.06%	$ 183,260,364	5.65%	$ 3,061,242,631	94.35%	$ 3,244,502,996
Special Trade Construction	$ 20,785,063	1.91%	$ 16,953,768	1.56%	$ 60,668,145	5.58%	$ 2,331,164	0.21%	$ 191,038,550	17.56%	$ 291,776,691	26.82%	$ 796,276,868	73.18%	$ 1,088,053,559
Professional Services	$ 5,691,385	0.32%	$ 66,217,935	3.72%	$ 81,085,425	4.55%	$ 422,411	0.02%	$ 38,318,870	2.15%	$ 191,736,026	10.76%	$ 1,589,480,801	89.24%	$ 1,781,216,826
Other Services	$ 85,379,101	1.15%	$ 110,762,489	1.49%	$ 157,005,765	2.11%	$ 14,517,975	0.20%	$ 423,741,216	5.69%	$ 791,406,546	10.63%	$ 6,652,547,325	89.37%	$ 7,443,953,871
Commodities	$ 118,533,869	1.28%	$ 155,316,580	1.68%	$ 249,251,472	2.70%	$ 9,338,117	0.10%	$ 568,066,480	6.16%	$ 1,100,506,519	11.93%	$ 8,128,050,807	88.07%	$ 9,228,557,326
Total	**$ 241,699,081**	**0.63%**	**$ 376,336,747**	**0.97%**	**$ 809,990,918**	**2.10%**	**$ 27,587,817**	**0.07%**	**$ 1,495,143,762**	**3.87%**	**$ 2,950,758,325**	**7.64%**	**$ 35,671,324,740**	**92.36%**	**$ 38,622,083,066**

Source: State of Texas CPA procurement data between fiscal years 2006 and 2008.
[1] Percent of total dollars paid to prime vendors.

The state spent $7.4 billion in the other services procurement category. HUB vendors received $791.4 million, 10.63 percent of the total spent on other services by the state. Of the HUB vendors, nonminority women-owned vendors received the most dollars with $423.7 million, constituting 5.7 percent of the overall other services total. Hispanic American-owned vendors were the next successful HUB group, receiving $157 million (2.1 percent).

In the special trade procurement category, the state spent almost $1.1 billion over the study period. Of the $1.1 billion, HUBs received 26.8 percent, the highest percentage of the six procurement categories. Nonminority women-owned vendors received 17.6 percent of the overall special trade total, while Hispanic American-owned vendors received 5.6 percent, African American-owned vendors received 1.9 percent and Asian American-owned vendors received 1.6 percent.

In the building construction procurement category, HUB vendors received 5.7 percent ($183.3 million), in which nonminority women-owned vendors were the most successful, receiving 3.1 percent of the overall building construction total, thus acquiring more than $99 million. Next in succession for the HUB groups were Hispanic American-owned vendors with 2 percent ($65.5 million).

The state let $1.8 billion in professional services contracts during the study period. HUB vendors received over $191 million (10.8 percent). Of the HUB vendors, Hispanic American-owned vendors were the most successful with $81.1 million (4.6 percent), followed by Asian American-owned vendors with $66.2 million (3.7 percent), and nonminority women-owned vendors receiving $38.3 million (2.2 percent).

4.3.5 HUB Prime Utilization by Object Code

Exhibit 4-6a shows HUB prime utilization by object code, which is more detailed than procurement type. The top 15 object codes in terms of dollar expenditure are listed in order in **Exhibit 4-6a**. The $23.53 billion spent in these 15 object codes constituted 60.2 percent of total prime spending over the study period. The $1.44 billion spent with HUBS was 6.1 percent of the spending in these 15 object codes and close to 50 percent (48.9%) percent of total HUB prime utilization ($1.44 billion of $2.95 billion).The results differ significantly based on the largest object code, 7347, Real Property Construction in Progress/Highway Network Capitalized. This object code was 38.06 of total prime spending and the largest object code for HUB prime vendor utilization. However, object code 7347 was the lowest percent of HUB prime utilization, 2.02 percent of the 15 object codes. **Exhibit 4-6b** shows that removing this object code from the list and HUB prime utilization, the spending amongst the remaining 14 object codes was 13.24 percent. If this object code is removed from total prime vendor utilization, HUB percentage prime utilization rises from 6.1 percent to 13.2 percent.

This table also shows a number of object codes where there is strong HUB utilization in absolute and percentage terms, such as 7378, Personal Property Computer Equipment Controlled, at universities; 7304, Fuels and Lubricants Other, at TxDOT; 7266, Real Property Buildings/Maintenance and Repair Expensed, at universities; and Personal Property Computer Equipment Controlled, at universities and state agencies.

The object codes with high dollar expenditures but low HUB prime utilization were:

- 7341, Real Property Construction in Progress Capitalized, universities, $2.12 billion (32.08 percent of total universities expenditures) in expenditure and 3.95 percent in HUB prime utilization.
- 7253, Other Professional Services, state agencies, $1.95 billion in expenditures (26.72 percent of total state agencies expenditures) and 3.74 percent in HUB prime utilization.

EXHIBIT 4-6a
STATE OF TEXAS
UTILIZATION OF PRIME VENDORS
PAYMENTS AND PERCENT OF TOTAL DOLLARS
BY RACE/ETHNICITY/GENDER AND TOP 15 OBJECT CODES
FISCAL YEARS 2006 THROUGH 2008

Procurement Type	Object Code	Description	Agency Categories	All Prime with Reportable Object Codes	HUB Minority Prime Expenditure (prime expenditure with only five minority categories)	Percent of Prime Spending (E/total E)*100	Percentage of HUB Expenditure within Object Code (F/E)*100
Heavy Construction	7347	Real Property Construction in Progress/Highway Network Capitalized	TxDOT	$14,887,639,136	$300,118,175.75	38.06	2.02
Professional Services	7256	Architectural/Engineering Services	TxDOT	$1,066,762,172	$138,053,108.32	2.73	12.94
Special Trade Construction	7266	Real Property Buildings/Maintenance and Repair Expensed	Universities	$331,473,385	$114,986,461.42	0.85	34.69
Other Services	7275	Information Technology Services	State Agencies	$301,907,652	$108,493,534.53	0.77	35.94
Commodities	7378	Personal Property Computer Equipment Controlled	Universities	$212,082,139	$104,298,386.87	0.54	49.18
Commodities	7334	Personal Property Furnishings, Equipment and Other Expensed Revised	Universities	$367,257,197	$84,204,401.76	0.94	22.93
Building Construction	7341	Real Property Construction in Progress Capitalized	Universities	$2,127,908,226	$83,951,490.97	5.44	3.95
Heavy Construction	7270	Real Property Infrastructure/Maintenance and Repair Expensed	TxDOT	$908,116,279	$82,340,873.13	2.32	9.07
Other Services	7253	Other Professional Services	State Agencies	$1,946,014,413	$72,756,580.43	4.97	3.74
Special Trade Construction	7343	Real Property Building Improvements Capitalized Revised	Universities	$254,031,614	$69,918,090.78	0.65	27.52
Commodities	7304	Fuels and Lubricants Other	TxDOT	$116,743,905	$62,676,571.87	0.30	53.69
Other Services	7253	Other Professional Services	TxDOT	$201,166,692	$57,953,014.64	0.51	28.81
Building Construction	7341	Real Property Construction in Progress Capitalized	State Agencies	$219,301,677	$57,688,889.74	0.56	26.31
Commodities	7300	Consumables	Med-Health Center	$422,676,935	$53,837,730.89	1.08	12.74
Other Services	7262	Personal Property Maintenance and Repair/Computer Software Expensed	State Agencies	$166,941,468	$53,229,071.77	0.43	31.88
Total				**$23,530,022,890**	**$1,444,506,382.87**	**60.15**	**6.14**

Source: State of Texas CPA procurement data between fiscal years 2006 and 2008.

EXHIBIT 4-6b
STATE OF TEXAS
UTILIZATION OF PRIME VENDORS
PAYMENTS AND PERCENT OF TOTAL DOLLARS
BY RACE/ETHNICITY/GENDER AND TOP 15 OBJECT CODES, EXCLUDING OBJECT CODE 7347
FISCAL YEARS 2006 THROUGH 2008

Object Code	Description	Agency Categories	All Prime with Reportable Object Codes	HUB Minority Prime Expenditure (prime expenditure with only five minority categories)	Percent of Prime Spending (E/total E)*100	Percentage of HUB Expenditure within Object Code (F/E)*100
7256	Architectural/Engineering Services	TxDOT	$1,066,762,172	$138,053,108.32	2.73	12.94
7266	Real Property Buildings/Maintenance and Repair Expensed	Universities	$331,473,385	$114,986,461.42	0.85	34.69
7275	Information Technology Services	State Agencies	$301,907,652	$108,493,534.53	0.77	35.94
7378	Personal Property Computer Equipment Controlled	Universities	$212,082,139	$104,298,386.87	0.54	49.18
7334	Personal Property Furnishings, Equipment and Other Expensed Revised	Universities	$367,257,197	$84,204,401.76	0.94	22.93
7341	Real Property Construction in Progress Capitalized	Universities	$2,127,908,226	$83,951,490.97	5.44	3.95
7270	Real Property Infrastructure/Maintenance and Repair Expensed	TxDOT	$908,116,279	$82,340,873.13	2.32	9.07
7253	Other Professional Services	State Agencies	$1,946,014,413	$72,756,580.43	4.97	3.74
7343	Real Property Building Improvements Capitalized Revised	Universities	$254,031,614	$69,918,090.78	0.65	27.52
7304	Fuels and Lubricants Other	TxDOT	$116,743,905	$62,676,571.87	0.30	53.69
7253	Other Professional Services	TxDOT	$201,166,692	$57,953,014.64	0.51	28.81
7341	Real Property Construction in Progress Capitalized	State Agencies	$219,301,677	$57,688,889.74	0.56	26.31
7300	Consumables	Med-Health Center	$422,676,935	$53,837,730.89	1.08	12.74
7262	Personal Property Maintenance and Repair/Computer Software Expensed	State Agencies	$166,941,468	$53,229,071.77	0.43	31.88
			$8,642,383,754	**$1,144,388,207.12**	**22.09**	**13.24**

Source: State of Texas CPA procurement data between fiscal years 2006 and 2008.

4.3.6 Prime Utilization by Agency Group and Procurement Category

Exhibit 4-7 shows the largest agency group/procurement categories for HUB prime vendor utilization during the study period were:

- Universities commodities procurement category with over $440.6 million HUB prime contract dollars.
- State agencies other services procurement category with over $338.7 million HUB prime contract dollars.
- TxDOT heavy construction procurement category with over $330.5 million HUB prime contract dollars.
- State agencies commodities procurement category with over $302.9 million HUB prime contract dollars.

These four agency group/procurement categories constituted 81.51 percent of total state HUB contracting over the study period.

EXHIBIT 4-7
STATE OF TEXAS
UTILIZATION OF VENDORS
BY RACE/ETHNICITY/GENDER AND AGENCY GROUP/PROCUREMENT CATEGORY
FISCAL YEARS 2006 THROUGH 2008

		African American		Asian American		Hispanic American		Native American		Nonminority Women		HUB Total		Non-HUB		Total
		$	%	$	%	$	%	$	%	$	%	$	%	$	%	$
TxDOT Summary	Heavy Construction	$5,213,764	0.03%	$11,594,801	0.07%	$194,923,835	1.24%	$822,262	0.01%	$117,925,230	0.75%	$330,479,892	2.10%	$15,413,296,367	97.90%	$15,743,776,259
	Building Construction	$24,002	0.03%	$1,139	0.00%	$1,843,451	2.02%	$17,308	0.02%	$1,086,432	1.19%	$2,972,332	3.25%	$88,343,663	96.75%	$91,315,994
	Special Trade Construction	$886,295	1.55%	$328,642	0.58%	$4,375,065	7.67%	$24,836	0.04%	$16,954,024	29.71%	$22,568,862	39.55%	$34,488,496	60.45%	$57,057,358
	Professional Services	$2,272,782	0.20%	$51,263,315	4.57%	$64,980,976	5.79%	$0	0.00%	$17,314,286	1.54%	$135,831,359	12.11%	$985,717,169	87.89%	$1,121,548,528
	Other Services	$23,456,351	3.05%	$18,014,168	2.34%	$36,979,870	4.81%	$3,954,452	0.51%	$96,712,383	12.58%	$179,117,223	23.31%	$589,365,728	76.69%	$768,482,951
	Commodities	$1,660,028	0.19%	$4,513,672	0.50%	$63,006,144	7.03%	$662,042	0.07%	$64,371,414	7.18%	$134,213,300	14.98%	$762,022,424	85.02%	$896,235,725
	Total	**$33,513,221**	**0.18%**	**$85,715,738**	**0.46%**	**$366,109,341**	**1.96%**	**$5,480,900**	**0.03%**	**$314,363,769**	**1.68%**	**$805,182,969**	**4.31%**	**$17,873,233,846**	**95.69%**	**$18,678,416,815**

		African American		Asian American		Hispanic American		Native American		Nonminority Women		HUB Total		Non-HUB		Total
		$	%	$	%	$	%	$	%	$	%	$	%	$	%	$
State Agencies Summary	Heavy Construction	$37,005	1.53%	$1,130	0.05%	$5,375	0.22%	$0	0.00%	$62,385	2.58%	$105,896	4.38%	$2,314,096	95.62%	$2,419,992
	Building Construction	$1,362,272	0.58%	$4,500,558	1.92%	$12,063,597	5.16%	$0	0.00%	$43,367,059	18.53%	$61,293,487	26.20%	$172,684,822	73.80%	$233,978,309
	Special Trade Construction	$878,243	0.40%	$199,364	0.09%	$19,238,339	8.86%	$972,665	0.45%	$15,754,447	7.26%	$37,043,059	17.06%	$180,053,546	82.94%	$217,096,604
	Professional Services	$1,396,155	0.56%	$622,012	0.25%	$7,447,365	2.97%	$359,097	0.14%	$8,535,891	3.40%	$18,360,520	7.31%	$232,735,245	92.69%	$251,095,765
	Other Services	$33,303,481	0.83%	$43,039,018	1.07%	$55,647,025	1.38%	$5,782,350	0.14%	$200,985,599	4.99%	$338,757,473	8.42%	$3,685,443,917	91.58%	$4,024,201,390
	Commodities	$16,044,432	0.61%	$66,787,760	2.55%	$52,493,077	2.01%	$3,866,564	0.15%	$163,781,217	6.26%	$302,973,050	11.59%	$2,312,013,952	88.41%	$2,614,987,002
	Total	**$53,021,589**	**0.72%**	**$115,149,843**	**1.57%**	**$146,894,780**	**2.00%**	**$10,980,675**	**0.15%**	**$432,486,598**	**5.89%**	**$758,533,485**	**10.33%**	**$6,585,245,578**	**89.67%**	**$7,343,779,063**

Source: State of Texas CPA procurement data between fiscal years 2006 and 2008.

EXHIBIT 4-7 (Continued)
STATE OF TEXAS
UTILIZATION OF VENDORS
BY RACE/ETHNICITY/GENDER AND AGENCY GROUP/PROCUREMENT CATEGORY
FISCAL YEARS 2006 THROUGH 2008

		African American		Asian American		Hispanic American		Native American		Nonminority Women		HUB Total		Non-HUB		Total
		$	%	$	%	$	%	$	%	$	%	$	%	$	%	$
Universities Summary	Heavy Construction	$90,647	0.24%	$3,239,819	8.65%	$1,561,115	4.17%	$0	0.00%	$4,537,409	12.12%	$9,428,990	25.19%	$28,009,161	74.81%	$37,438,151
	Building Construction	$4,472,661	0.19%	$7,369,854	0.31%	$42,151,597	1.79%	$129,309	0.01%	$52,345,456	2.23%	$106,468,877	4.53%	$2,242,021,532	95.47%	$2,348,490,409
	Special Trade Construction	$15,997,118	2.51%	$13,463,593	2.11%	$30,344,728	4.76%	$1,271,709	0.20%	$138,398,212	21.70%	$199,475,360	31.28%	$438,215,049	68.72%	$637,690,408
	Professional Services	$1,286,743	0.54%	$5,449,578	2.30%	$7,413,798	3.13%	$49,763	0.02%	$4,186,275	1.77%	$18,386,157	7.76%	$218,666,355	92.24%	$237,052,512
	Other Services	$16,929,076	1.23%	$11,404,193	0.83%	$28,193,712	2.05%	$3,844,146	0.28%	$62,281,047	4.53%	$122,652,173	8.91%	$1,253,321,730	91.09%	$1,375,973,903
	Commodities	$48,664,010	2.07%	$52,059,548	2.22%	$93,548,656	3.99%	$2,914,061	0.12%	$243,445,634	10.38%	$440,631,909	18.79%	$1,905,019,430	81.21%	$2,345,651,340
	Total	**$87,440,254**	**1.25%**	**$92,986,586**	**1.33%**	**$203,213,605**	**2.91%**	**$8,208,988**	**0.12%**	**$505,194,033**	**7.24%**	**$897,043,466**	**12.85%**	**$6,085,253,257**	**87.15%**	**$6,982,296,723**

		African American		Asian American		Hispanic American		Native American		Nonminority Women		HUB Total		Non-HUB		Total
		$	%	$	%	$	%	$	%	$	%	$	%	$	%	$
Medical Institutions Summary	Heavy Construction	$4,840	2.53%	$0	0.00%	$1,212	0.63%	$0	0.00%	$78,650	41.09%	$84,702	44.26%	$106,685	55.74%	$191,387
	Building Construction	$104,471	0.02%	$378,674	0.07%	$9,436,386	1.65%	$9,271	0.00%	$2,299,732	0.40%	$12,228,534	2.14%	$558,192,614	97.86%	$570,421,147
	Special Trade Construction	$3,023,408	1.59%	$2,962,168	1.56%	$6,710,013	3.54%	$61,954	0.03%	$33,351,798	17.59%	$46,109,341	24.32%	$143,519,778	75.68%	$189,629,119
	Professional Services	$404,790	0.24%	$8,883,029	5.27%	$1,243,285	0.74%	$0	0.00%	$5,761,175	3.42%	$16,292,280	9.66%	$152,362,032	90.34%	$168,654,312
	Other Services	$11,690,193	0.94%	$13,721,140	1.11%	$36,185,159	2.92%	$937,027	0.08%	$52,916,467	4.27%	$115,449,987	9.31%	$1,124,415,950	90.69%	$1,239,865,937
	Commodities	$52,165,399	1.54%	$20,944,433	0.62%	$40,203,595	1.18%	$1,895,450	0.06%	$129,457,651	3.81%	$244,666,528	7.21%	$3,148,995,001	92.79%	$3,393,661,528
	Total	**$67,393,101**	**1.21%**	**$46,889,445**	**0.84%**	**$93,779,650**	**1.69%**	**$2,903,704**	**0.05%**	**$223,865,473**	**4.02%**	**$434,831,372**	**7.82%**	**$5,127,592,060**	**92.18%**	**$5,562,423,432**

Source: State of Texas CPA procurement data between fiscal years 2006 and 2008.

4.3.7 Threshold Analysis of Prime Contractors

This analysis breaks down the amount of dollars paid to a prime contractor in specific dollar ranges. The dollar ranges are shown below.

- Between $.01 and $10,000.
- Between $10,000.01 and $50,000.
- Between $50,000.01 and $100,000.
- Between $100,000.01 and $250,000.
- Between $250,000.01 and $500,000.
- Between $500,000.01 and $1,000,000.
- Between $1,000,000.01 and $3 million.
- Greater than $3 million.

During the study period, 62.7 ($24.6 billion of $38.72 billion) percent of the state's spending was in the dollar range of $3 million and higher (**Exhibit 4-8**).[10] HUBs received 2.7 percent overall in this category with nonminority women-owned vendors receiving 1.2 percent ($299.2 million). It is worth noting that nonminority women-owned vendors were the most successful HUB group in all of the threshold dollar categories. HUBs were most successful as a whole in the between $250,000.01 and $500,000.00 threshold category, receiving 17.9 percent of the total for that category.

EXHIBIT 4-8
STATE OF TEXAS
UTILIZATION OF PRIME VENDORS
PAYMENTS AND PERCENT OF TOTAL DOLLARS
BY RACE/ETHNICITY/GENDER AND THRESHOLD CATEGORY
FISCAL YEARS 2006 THROUGH 2008

Threshold Category	African American		Asian American		Hispanic American		Native American		Nonminority Women		HUB		Non-HUB		Total Dollars
	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$	%[1]	$
$ 0.01- 10,000	$17,012,760	1.18%	$21,739,913	1.50%	$52,371,905	3.62%	$2,252,704	0.16%	$104,231,266	7.21%	$197,608,548	13.66%	$1,248,746,127	86.34%	$1,446,354,674
$10000.01 - 50,000	$28,218,819	1.53%	$36,851,582	2.00%	$69,443,859	3.77%	$4,737,838	0.26%	$166,981,627	9.06%	$306,233,725	16.62%	$1,536,765,401	83.38%	$1,842,999,126
$50,000.01 - 100,000	$21,669,193	1.84%	$31,618,421	2.68%	$44,569,866	3.78%	$3,034,194	0.26%	$100,221,581	8.50%	$201,113,256	17.06%	$978,004,490	82.94%	$1,179,117,745
$100,000.01 - 250,000	$30,740,324	1.58%	$52,097,090	2.67%	$78,945,444	4.05%	$5,398,679	0.28%	$179,338,441	9.21%	$346,519,979	17.79%	$1,601,349,440	82.21%	$1,947,869,419
$250,000.01 - 500,000	$33,272,020	1.79%	$49,465,215	2.67%	$81,353,777	4.38%	$2,659,936	0.14%	$165,336,122	8.91%	$332,087,071	17.89%	$1,523,879,152	82.11%	$1,855,966,223
$500,000.01 - 1,000,000	$29,830,015	1.43%	$53,528,241	2.56%	$76,956,726	3.68%	$6,878,332	0.33%	$169,593,539	8.10%	$336,786,854	16.09%	$1,755,955,467	83.91%	$2,092,742,321
$1,000,000.01 - 3,000,000	$39,321,869	1.05%	$89,246,412	2.39%	$120,567,511	3.23%	$2,637,258	0.07%	$313,705,992	8.40%	$565,479,041	15.14%	$3,170,060,259	84.86%	$3,735,539,301
$3,000,000.01 - High	$43,518,148	0.18%	$42,893,637	0.17%	$288,060,644	1.17%	$0	0.00%	$299,150,421	1.22%	$673,622,850	2.74%	$23,942,157,295	97.26%	$24,615,780,146
Total	**$243,583,147**	**0.63%**	**$377,440,511**	**0.97%**	**$812,269,732**	**2.10%**	**$27,598,942**	**0.07%**	**$1,498,558,991**	**3.87%**	**$2,959,451,324**	**7.64%**	**$35,756,917,631**	**92.36%**	**$38,716,368,955**

Source: State of Texas CPA procurement data between fiscal years 2006 and 2008.

[10] Note that the total is slightly different since negative values were not included in this data (threshold dollar category). Negative dollars amounts, such as rebates, were included in the other utilization analyses of prime vendors.

4.4 Availability

4.4.1 Bid and Bidder Availability

Bid Availability

During the study period, HUB vendors submitted more than 339,000 bids, 26.9 percent of 1.26 million bids received by the state (**Exhibit 4-9)**. Of those HUB vendors, nonminority women-owned vendors submitted the most bids with 14.2 percent of the total number of bids. Nonminority women-owned vendors also submitted the most bids among the total number of HUB only bids submitted, submitting more than 179,000 of the total 339,000 bids submitted by HUBs, resulting in more than 53 percent. Hispanic American-owned vendors submitted 25.8 percent of the HUB total and 6.9 percent of the overall total, with more than 87,300 bids, followed by African American-owned vendors with more than 38,700 bids (11.4 percent of HUB and 3.1 percent of the overall total). The highest percentage of prime vendor bids was with Texas state agencies (33.3%) and the lowest percentage of prime bids was with the TxDOT (15.6%).

EXHIBIT 4-9
STATE OF TEXAS
TOTAL NUMBER AND PERCENTAGE OF BIDS SUBMITTED
BY RACE/ETHNICITY/GENDER AND AGENCY GROUP
FISCAL YEARS 2006 THROUGH 2008

Agency Group	African American			Asian American			Hispanic American			Native American			Nonminority Women			HUB Total		Non-HUB		Total
	N	% of HUB	% of Total	N	% of HUB	% of Total	N	% of HUB	% of Total	N	% of HUB	% of Total	N	% of HUB	% of Total	N	% of Total	N	% of Total	N
State Agencies	11,331	12.48%	4.15%	8,588	9.46%	3.15%	16,624	18.31%	6.09%	996	1.10%	0.36%	53,254	58.65%	19.51%	90,793	33.26%	182,190	66.74%	272,983
Universities	23,737	12.21%	3.35%	16,801	8.64%	2.37%	58,145	29.90%	8.21%	2,051	1.05%	0.29%	93,724	48.20%	13.23%	194,458	27.46%	513,748	72.54%	708,206
Medical Institutions	1,008	5.29%	1.71%	1,215	6.38%	2.07%	4,437	23.29%	7.55%	198	1.04%	0.34%	12,191	64.00%	20.74%	19,049	32.41%	39,733	67.59%	58,782
TxDOT	2,697	7.77%	1.21%	2,440	7.03%	1.10%	8,135	23.43%	3.66%	842	2.42%	0.38%	20,610	59.35%	9.27%	34,724	15.61%	187,661	84.39%	222,385
Total Number of Bids	38,773	11.44%	3.07%	29,044	8.57%	2.30%	87,341	25.76%	6.92%	4,087	1.21%	0.32%	179,779	53.03%	14.24%	339,024	26.86%	923,332	73.14%	1,262,356

Source: State of Texas CPA procurement data between fiscal years 2006 and 2008.

Bidder Availability

The TxDOT maintains a list of prequalified firms and prequalified bidders that specialize in construction services. As shown in **Exhibit 4-10a**, there were 251 prequalified HUB-DBE firms during the study period, 10.1 percent of prequalified TxDOT construction firms. Only 17.9 percent (443 of 2,475 vendors) of the total prequalified firms actually bid on TxDOT contracts during the study period (**Exhibit 4-10b)**, of which only 43 HUB-DBEs bid on TxDOT prime construction contracts, 9.7 percent of bidders. Again, this percentage is significant because TxDOT prime construction contracts were 40.76 percent state of Texas prime vendor spending.

EXHIBIT 4-10a
TEXAS DEPARTMENT OF TRANSPORTATION
PREQUALIFIED FIRM AVAILABILITY
CONSTRUCTION
BY RACE/ETHNICITY/GENDER
FISCAL YEARS 2006 THROUGH 2008

	African American	Asian American	Hispanic American	Native American	Nonminority Women	HUB-DBE	Non-HUB	Total
Total	62	12	97	1	79	251	2,224	2,475
Percent	2.51%	0.48%	3.92%	0.04%	3.19%	10.14%	89.86%	100.00%

Source: Texas Department of Transportation

EXHIBIT 4-10b
TEXAS DEPARTMENT OF TRANSPORTATION
PREQUALIFIED BIDDER AVAILABILITY
CONSTRUCTION
BY RACE/ETHNICITY/GENDER
FISCAL YEARS 2006 THROUGH 2008

	African American	Asian American	Hispanic American	Native American	Nonminority Women	HUB-DBE	Non-HUB	Total
Total	3	2	28	2	8	43	400	443
Percent	0.68%	0.45%	6.32%	0.45%	1.81%	9.71%	90.29%	100.00%

Source: Texas Department of Transportation

The University of Texas System (UT System) also provided data of HUB bidder availability. There were 137 HUB bidders, 11.24 percent of prime bidders on UT System projects (refer to **Appendix I**). The UT System bidder data was not broken out by procurement type.

4.4.2 Vendor Availability

Exhibit 4-11 shows vendor availability of HUBs and non-HUBs based on the CMBL data only. As shown in **Exhibit 4-11**, HUBs were roughly between 39.8 and 51.9 percent of state vendors, depending on the procurement category. The highest relative vendor availability was more than 51 percent in special trade construction. Vendor availability based on CMBL data for heavy construction was lower (187 vendors) than based on TxDOT prequalified bidders (443) as presented in **Exhibit 4-10b**. However, the vendor availability based on CMBL data significantly overstates the percentage of HUB availability, since most non-HUB awardees are not in the CMBL. **Exhibit 4-11** shows that there were more than 106,000 non-HUB awardees, while there were approximately 5,641 non-HUBs in the CMBL data provided to MGT.

HUB vendors in the CMBL directory are not equally dispersed around the state. Over 93.3 percent of HUBs in the CMBL directory are located in four of the thirteen economic regions of the state of Texas: Central Texas, South Texas, Gulf Coast and Metroplex (refer to **Appendix J**). The same result holds true when all HUBs and DBEs are allocated by region.

There is other data indicating larger HUB vendor availability. As reported by the CPA, the current total number of HUB vendors, 12,269, is much higher than the total number presented in **Exhibit 4-11**, which is 4,204. In addition, based on the U.S. Small Business Administration's (SBA) vendor list there are 17,776 minority and women business enterprises (M/WBEs) located in the state of Texas, of which 12,374 were classified as MBEs.[11]

EXHIBIT 4-11
STATE OF TEXAS
SUMMARY OF AVAILABILITY BASED ON CMBL ONLY
BY RACE/ETHNICITY/GENDER

Procurement Category	African American		Asian American		Hispanic American		Native American		Nonminority Women		HUB		Non-HUB		Total
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#
Heavy Construction	8	4.28%	5	2.67%	40	21.39%	0	0.00%	29	15.51%	82	43.85%	105	56.15%	**187**
Building Construction	58	10.92%	26	4.90%	86	16.20%	0	0.00%	90	16.95%	260	48.96%	271	51.04%	**531**
Special Trade Construction	25	10.73%	11	4.72%	42	18.03%	0	0.00%	43	18.45%	121	51.93%	112	48.07%	**233**
Professional Services	164	8.07%	122	6.00%	221	10.88%	2	0.10%	420	20.67%	929	45.72%	1,103	54.28%	**2,032**
Other Services	61	6.24%	122	12.49%	78	7.98%	3	1.44%	209	21.39%	473	48.41%	504	51.59%	**977**
Commodities	280	4.76%	226	3.84%	597	10.14%	19	0.32%	1,217	20.68%	2,339	39.75%	3,546	60.25%	**5,885**
Total	**596**	**6.05%**	**512**	**5.20%**	**1064**	**10.81%**	**24**	**0.24%**	**2,008**	**20.40%**	**4,204**	**42.70%**	**5,641**	**57.30%**	**9,845**

Source: State of Texas CPA procurement data between fiscal years 2006 and 2008.

[11] Dsbs.sba.gov.

4.4.3 Census Availability

Exhibits 4-12(a)-(f) shows U.S. Bureau of Census data based 2002 Survey of Business Owners (SBO) for firms with paid employees only for the state of Texas. As noted previously, most of this data is special tabulation used to match up with the state's procurement categories. There are several observations about the following tables.

- M/WBEs had the highest percentage availability in heavy construction out of the three construction groups, 25.94 percent, although based on TxDOT prequalified HUB-DBE availability and CMBL vendor availability was much lower in heavy construction.
- M/WBEs have a large availability in goods in both the SBO census (37.8%) and vendor data (39.8%).
- While there were many more M/WBEs presented in the SBO census data than HUBs in the CMBL data, percentages of M/WBE availability in the SBO census data, while substantial, was still considerably lower than percentage HUB availability in the CMBL data.

Special tabulations based on U.S. Bureau of Census, 2002 SBO were also run for medical supplies given the state medical institutions included in the analysis. As presented in **Appendix J** for this report, M/WBEs were 17.98 percent of census firms in wholesale medical supplies.

EXHIBIT 4-12(a)
STATE OF TEXAS
BUILDING CONSTRUCTION AVAILABILITY OF FIRMS
BASED ON U.S. CENSUS DATA, SURVEY OF BUSINESS OWNERS
WITHIN THE STATE OF TEXAS
BY RACE/ETHNICITY/GENDER
NAICS CODE 236, CONSTRUCTION OF BUILDINGS
PAID EMPLOYEES ONLY

	African Americans[1]		Asian Americans[1]		Hispanic Americans[1]		Native Americans[1]		Nonminority Women		M/WBE		Non-M/WBE Firms[2]		Total Firms
	#	%	#	%	#	%	#	%	#	%		%	#	%	
Total	71	0.69%	173	1.67%	951	9.21%	37	0.36%	704	6.81%	1,936	18.74%	8,395	81.26%	10,331

Source: U.S. Bureau of Census 2002, Survey of Business Owners.
[1] Minority men and women firms are included in their respective minority classifications.
[2] Derived from the difference of total firms and total M/WBE firms.

EXHIBIT 4-12(b)
STATE OF TEXAS
HEAVY CONSTRUCTION AVAILABILITY OF FIRMS
BASED ON U.S. CENSUS DATA, SURVEY OF BUSINESS OWNERS
WITHIN THE STATE OF TEXAS
BY RACE/ETHNICITY/GENDER
NAICS CODE 237, HEAVY CONSTRUCTION
PAID EMPLOYEES ONLY

	African Americans[1]		Asian Americans[1]		Hispanic Americans[1]		Native Americans[1]		Nonminority Women		M/WBE		Non-M/WBE Firms[2]		Total Firms
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	
Total	18	0.44%	13	0.32%	497	12.24%	60	1.48%	465	11.46%	1,053	25.94%	3,006	74.06%	4,059

Source: U.S. Bureau of Census 2002, Survey of Business Owners.
[1] Minority men and women firms are included in their respective minority classifications.
[2] Derived from the difference of total firms and total M/WBE firms.

EXHIBIT 4-12(c)
STATE OF TEXAS
SPECIAL TRADE CONSTRUCTION AVAILABILITY OF FIRMS
BASED ON U.S. CENSUS DATA, SURVEY OF BUSINESS OWNERS
WITHIN THE STATE OF TEXAS
BY RACE/ETHNICITY/GENDER
NAICS CODE 238, SPECIAL TRADE CONSTRUCTION
PAID EMPLOYEES ONLY

	African Americans[1]		Asian Americans[1]		Hispanic Americans[1]		Native Americans[1]		Nonminority Women		M/WBE		Non-M/WBE Firms[2]		Total Firms
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	
Total	266	1.07%	83	0.34%	2,975	12.02%	259	1.05%	2,081	8.41%	5,664	22.88%	19,093	77.12%	24,757

Source: U.S. Bureau of Census 2002, Survey of Business Owners.
[1] Minority men and women firms are included in their respective minority classifications.
[2] Derived from the difference of total firms and total M/WBE firms.

EXHIBIT 4-12(d)
STATE OF TEXAS
PROFESSIONAL SERVICES AVAILABILITY OF FIRMS
BASED ON U.S. CENSUS DATA, SURVEY OF BUSINESS OWNERS
WITHIN THE STATE OF TEXAS
BY RACE/ETHNICITY/GENDER
NAICS CODES[12] 541320, 541330, 541340, 541350, 541360, 541370, 52393, 62, 5242
PAID EMPLOYEES ONLY

	African Americans[1]		Asian Americans[1]		Hispanic Americans[1]		Native Americans[1]		Nonminority Women		M/WBE		Non-M/WBE Firms[2]		Total Firms
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	
Total	2,084	3.73%	3,607	6.45%	5,296	9.47%	266	0.48%	7,648	13.68%	18,901	33.81%	37,010	66.19%	55,911

Source: U.S. Bureau of Census 2002, Survey of Business Owners.
[1] Minority men and women firms are included in their respective minority classifications.
[2] Derived from the difference of total firms and total M/WBE firms.

EXHIBIT 4-12(e)
STATE OF TEXAS
OTHER SERVICES AVAILABILITY OF FIRMS
BASED ON U.S. CENSUS DATA, SURVEY OF BUSINESS OWNERS
WITHIN THE STATE OF TEXAS
BY RACE/ETHNICITY/GENDER
NAICS CODES 56, 81, AND OTHER PROFESSIONAL SERVICES
PAID EMPLOYEES ONLY

	African Americans[1]		Asian Americans[1]		Hispanic Americans[1]		Native Americans[1]		Nonminority Women		M/WBE		Non-M/WBE Firms[2]		Total Firms
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	
Total	17,023	17.57%	3,607	3.72%	11,178	11.53%	319	0.33%	15,959	16.47%	48,086	49.62%	48,822	50.38%	96,908

Source: U.S. Bureau of Census 2002, Survey of Business Owners.
[1] Minority men and women firms are included in their respective minority classifications.
[2] Derived from the difference of total firms and total M/WBE firms.

[12] NAICS 541320 - Landscape Architectural Services, NAICS 541330 - Engineering Services, NAICS 541340 - Drafting Services, NAICS 541350 - Building Inspection Services, NAICS 541360 - Geophysical Surveying and Mapping Services, NAICS 541370 - Surveying and Mapping (except Geophysical) Services, NAICS 52393 - Investment Advice, NAICS 62 - Health Care and Social Assistance, NAICS 5242 - Agencies, Brokerages, and Other Insurance Related Activities

EXHIBIT 4-12(f)
STATE OF TEXAS
COMMODITIES AVAILABILITY OF FIRMS
BASED ON U.S. CENSUS DATA, SURVEY OF BUSINESS OWNERS
WITHIN THE STATE OF TEXAS
BY RACE/ETHNICITY/GENDER
NAICS CODES 42 AND 44-45, WHOLESALE TRADE AND RETAIL TRADE
PAID EMPLOYEES ONLY

	African Americans[1]		Asian Americans[1]		Hispanic Americans[1]		Native Americans[1]		Nonminority Women		M/WBE		Non-M/WBE Firms[2]		Total Firms
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	
Total	500	0.77%	7,161	11.03%	5,696	8.77%	S	0.00%	11,153	17.18%	24,510	37.76%	40,407	62.24%	64,917

Source: U.S. Bureau of Census 2002, Survey of Business Owners.
[1] Minority men and women firms are included in their respective minority classifications.
[2] Derived from the difference of total firms and total M/WBE firms.
S denotes that according to U.S. Census, information was withheld for Native American-owned firms because estimates did not meet publication standards, which can be due to gross receipts, number of employees, etc. Thus, the availability calculations were not conducted for Native Americans.

4.5 Disparity Analysis

4.5.1 Disparity Index

The disparity index is used to measure the difference between utilization and availability. Several post-*Croson* cases, most notably *Contractors Association of Eastern Pennsylvania v. City of Philadelphia*, support the use of disparity indices for determining disparity within the marketplace.[13]

For this study, the ratio of the percentage of utilization to the percentage of availability multiplied by 100 serves as our measure of choice, as shown in the formula:

$$\textbf{(1) Disparity Index} = \frac{\%Um_1p_1}{\%Am_1p_1} \times 100$$

Where: Um_1p_1 = utilization of HUB_1 for $procurement_1$

Am_1p_1 = availability of HUB_1 for $procurement_1$

Due to the mathematical properties involved in the calculations, a disparity index value of 0.00 indicates zero utilization. An index of 100 indicates parity between utilization and availability. Firms within a business category are considered underutilized if the disparity indices are less than 100, and overutilized if the indices are above 100.

To evaluate levels of underutilization or overutilization within a procurement context one rule of thumb is that a disparity index of less than 80 indicates that the level of disparity warrants further investigation. The disparity index threshold of 80 is based on the Equal Employment Opportunity Commission's (EEOC) adopted "80 percent rule" in the *Uniform Guidelines on Employee Selection Procedures*. In the context of employment discrimination, a disparity ratio below 80 indicates a substantial level of disparity demonstrating adverse or disparate impact. The Supreme Court accepted the use of the 80 percent rule in *Connecticut v. Teal (Teal)*, 457 U.S. 440 (1982). In *Teal* and other affirmative action cases, the terms "adverse impact," "disparate impact," and "discriminatory impact" are used interchangeably. Thus, MGT's designation of disparity is founded on a Supreme Court decision.

Because this section of the study is not seeking to provide a factual predicate for race based set asides for prime contracting, only a basic disparity analysis is conducted. Where available, pre-qualified prime bidders are used for availability. Otherwise SBO census data is used to estimate availability. Additional disparity analyses are presented in **Appendix F**.

[13] *Contractors Ass'n of Eastern Pennsylvania, Inc. v. City of Philadelphia*, 91 F 3d at 603.

4.5.2 Disparity by Procurement Type

Exhibits 4-13(b)-(f) provide disparity ratios for prime vendors by procurement category using SBO census availability. **Exhibits 4-13(b)-(f)** are summarized in **Exhibit 4-13 (a)** which shows that overall, HUBs were generally underutilized based on the availability of those firms in the relevant market area. The disparity analysis by year shows that HUBs were underutilized in each year of the study period. The major exception was for African American-, Asian American- and nonminority women-owned vendors in special trades and for African American- and Native American-owned vendors in commodities.

EXHIBIT 4-13(a)
STATE OF TEXAS
SUMMARY OF HUB UNDERUTILIZATION
BY RACE/ETHNICITY/GENDER
FISCAL YEARS 2006 THROUGH 2008

Business Category	African American	Asian American	Hispanic American	Native American	Nonminority Women
Heavy Construction	YES*	YES*	YES*	YES*	YES*
Building Construction	YES*	YES*	YES*	YES*	YES*
Special Trade Construction	NO	NO	YES*	YES*	NO
Professional Services	YES*	YES*	YES*	YES*	YES*
Other Services	YES*	YES*	YES*	YES*	YES*
Commodities	NO	YES*	YES*	N/A	YES*

Source: **Exhibits 4-13(b)-(f)**
* An asterisk is used to indicate a substantial level of disparity - index below 80.00.

EXHIBIT 4-13(b)
STATE OF TEXAS
HEAVY CONSTRUCTION
DISPARITY ANALYSIS OF PRIME CONTRACTORS
BASED ON U.S. CENSUS SURVEY OF BUSINESS OWNERS DATA, HEAVY CONSTRUCTION
FISCAL YEARS 2006 THROUGH 2008

Business Owner Classification	% of Dollars[1]	% of Available Firms[2]	Disparity Index[3]	Disparate Impact of Utilization	
Fiscal Year 2006					
African American	0.02%	0.44%	5.35	Underutilization	*
Asian American	0.07%	0.32%	20.82	Underutilization	*
Hispanic American	1.20%	12.24%	9.78	Underutilization	*
Native American	0.00%	1.48%	0.21	Underutilization	*
Nonminority Women	1.11%	11.46%	9.65	Underutilization	*
Nonminority Firms	97.60%	74.06%	131.79	Overutilization	
Fiscal Year 2007					
African American	0.03%	0.44%	7.89	Underutilization	*
Asian American	0.09%	0.32%	27.91	Underutilization	*
Hispanic American	1.26%	12.24%	10.30	Underutilization	*
Native American	0.01%	1.48%	0.48	Underutilization	*
Nonminority Women	1.15%	11.46%	10.07	Underutilization	*
Nonminority Firms	97.45%	74.06%	131.59	Overutilization	
Fiscal Year 2008					
African American	0.04%	0.44%	9.63	Underutilization	*
Asian American	0.13%	0.32%	39.19	Underutilization	*
Hispanic American	1.26%	12.24%	10.31	Underutilization	*
Native American	0.01%	1.48%	0.36	Underutilization	*
Nonminority Women	1.05%	11.46%	9.13	Underutilization	*
Nonminority Firms	97.52%	74.06%	131.68	Overutilization	
All Fiscal Years					
African American	0.03%	0.44%	7.61	Underutilization	*
Asian American	0.09%	0.32%	29.25	Underutilization	*
Hispanic American	1.24%	12.24%	10.13	Underutilization	*
Native American	0.01%	1.48%	0.35	Underutilization	*
Nonminority Women	1.10%	11.46%	9.62	Underutilization	*
Nonminority Firms	97.52%	74.06%	131.69	Overutilization	

Source: Vendor utilization and availability for the state of Texas covering the period from September 1, 2005 through August 31, 2008.
[1] The percentage of dollars is taken from the prime utilization exhibit previously shown.
[2] The percentage of available vendors is taken from the availability exhibit previously shown.
[3] The disparity index is the ratio of % utilization to % availability times 100.
* An asterisk is used to indicate a substantial level of disparity - index below 80.00.

EXHIBIT 4-13(c)
STATE OF TEXAS
BUILDING CONSTRUCTION
DISPARITY ANALYSIS OF PRIME CONTRACTORS
BASED ON U.S. CENSUS SURVEY OF BUSINESS OWNERS DATA, BUILDING CONSTRUCTION
FISCAL YEARS 2006 THROUGH 2008

Business Owner Classification	% of Dollars[1]	% of Available Firms[2]	Disparity Index[3]	Disparate Impact of Utilization	
Fiscal Year 2006					
African American	0.42%	0.69%	60.82	Underutilization	*
Asian American	0.48%	1.67%	28.45	Underutilization	*
Hispanic American	1.92%	9.21%	20.85	Underutilization	*
Native American	0.00%	0.36%	0.95	Underutilization	*
Nonminority Women	2.17%	6.81%	31.80	Underutilization	*
Nonminority Firms	95.02%	81.26%	116.93	Overutilization	
Fiscal Year 2007					
African American	0.07%	0.69%	10.66	Underutilization	*
Asian American	0.28%	1.67%	16.95	Underutilization	*
Hispanic American	1.45%	9.21%	15.71	Underutilization	*
Native American	0.00%	0.36%	0.88	Underutilization	*
Nonminority Women	2.31%	6.81%	33.83	Underutilization	*
Nonminority Firms	95.89%	81.26%	118.00	Overutilization	
Fiscal Year 2008					
African American	0.10%	0.69%	14.25	Underutilization	*
Asian American	0.38%	1.67%	22.96	Underutilization	*
Hispanic American	2.62%	9.21%	28.48	Underutilization	*
Native American	0.01%	0.36%	2.07	Underutilization	*
Nonminority Women	4.47%	6.81%	65.65	Underutilization	*
Nonminority Firms	92.42%	81.26%	113.73	Overutilization	
All Fiscal Years					
African American	0.18%	0.69%	26.74	Underutilization	*
Asian American	0.38%	1.67%	22.55	Underutilization	*
Hispanic American	2.02%	9.21%	21.93	Underutilization	*
Native American	0.00%	0.36%	1.34	Underutilization	*
Nonminority Women	3.06%	6.81%	44.96	Underutilization	*
Nonminority Firms	94.35%	81.26%	116.11	Overutilization	

Source: Vendor utilization and availability for the state of Texas covering the period from September 1, 2005 through August 31, 2008.
[1] The percentage of dollars is taken from the prime utilization exhibit previously shown.
[2] The percentage of available vendors is taken from the availability exhibit previously shown.
[3] The disparity index is the ratio of % utilization to % availability times 100.
* An asterisk is used to indicate a substantial level of disparity - index below 80.00.

EXHIBIT 4-13(d)
STATE OF TEXAS
SPECIAL TRADE CONSTRUCTION
DISPARITY ANALYSIS OF PRIME CONTRACTORS
BASED ON U.S. CENSUS SURVEY OF BUSINESS OWNERS DATA, SPECIAL TRADE CONSTRUCTION
FISCAL YEARS 2006 THROUGH 2008

Business Owner Classification	% of Dollars[1]	% of Available Firms[2]	Disparity Index[3]	Disparate Impact of Utilization	
Fiscal Year 2006					
African American	1.70%	1.07%	158.42	Overutilization	
Asian American	1.35%	0.34%	403.20	Overutilization	
Hispanic American	4.06%	12.02%	33.80	Underutilization	*
Native American	0.22%	1.05%	20.88	Underutilization	*
Nonminority Women	15.83%	8.41%	188.34	Overutilization	
Nonminority Firms	76.84%	77.12%	99.63	Underutilization	
Fiscal Year 2007					
African American	1.18%	1.07%	109.75	Overutilization	
Asian American	1.38%	0.34%	412.22	Overutilization	
Hispanic American	6.47%	12.02%	53.86	Underutilization	*
Native American	0.17%	1.05%	16.62	Underutilization	*
Nonminority Women	18.11%	8.41%	215.40	Overutilization	
Nonminority Firms	72.69%	77.12%	94.25	Underutilization	
Fiscal Year 2008					
African American	2.74%	1.07%	254.74	Overutilization	
Asian American	1.89%	0.34%	564.69	Overutilization	
Hispanic American	6.10%	12.02%	50.76	Underutilization	*
Native American	0.25%	1.05%	23.53	Underutilization	*
Nonminority Women	18.57%	8.41%	220.98	Overutilization	
Nonminority Firms	70.45%	77.12%	91.35	Underutilization	
All Fiscal Years					
African American	1.91%	1.07%	177.79	Overutilization	
Asian American	1.56%	0.34%	464.77	Overutilization	
Hispanic American	5.58%	12.02%	46.40	Underutilization	*
Native American	0.21%	1.05%	20.48	Underutilization	*
Nonminority Women	17.56%	8.41%	208.88	Overutilization	
Nonminority Firms	73.18%	77.12%	94.89	Underutilization	

Source: Vendor utilization and availability for the state of Texas covering the period from September 1, 2005 through August 31, 2008.
[1] The percentage of dollars is taken from the prime utilization exhibit previously shown.
[2] The percentage of available vendors is taken from the availability exhibit previously shown.
[3] The disparity index is the ratio of % utilization to % availability times 100.
* An asterisk is used to indicate a substantial level of disparity - index below 80.00.

EXHIBIT 4-13(e)
STATE OF TEXAS
PROFESSIONAL SERVICES
DISPARITY ANALYSIS OF PRIME CONTRACTORS
BASED ON U.S. CENSUS SURVEY OF BUSINESS OWNERS DATA, PROFESSIONAL SERVICES TABULATION
FISCAL YEARS 2006 THROUGH 2008

Business Owner Classification	% of Dollars[1]	% of Available Firms[2]	Disparity Index[3]	Disparate Impact of Utilization
Fiscal Year 2006				
African American	0.30%	3.73%	8.07	Underutilization *
Asian American	3.84%	6.45%	59.54	Underutilization *
Hispanic American	3.68%	9.47%	38.85	Underutilization *
Native American	0.01%	0.48%	3.15	Underutilization *
Nonminority Women	2.43%	13.68%	17.74	Underutilization *
Nonminority Firms	89.74%	66.19%	135.57	Overutilization
Fiscal Year 2007				
African American	0.29%	3.73%	7.74	Underutilization *
Asian American	3.93%	6.45%	60.86	Underutilization *
Hispanic American	5.07%	9.47%	53.56	Underutilization *
Native American	0.03%	0.48%	6.93	Underutilization *
Nonminority Women	2.15%	13.68%	15.72	Underutilization *
Nonminority Firms	88.53%	66.19%	133.74	Overutilization
Fiscal Year 2008				
African American	0.37%	3.73%	9.96	Underutilization *
Asian American	3.37%	6.45%	52.29	Underutilization *
Hispanic American	4.94%	9.47%	52.15	Underutilization *
Native American	0.02%	0.48%	4.93	Underutilization *
Nonminority Women	1.86%	13.68%	13.62	Underutilization *
Nonminority Firms	89.43%	66.19%	135.10	Overutilization
All Fiscal Years				
African American	0.32%	3.73%	8.57	Underutilization *
Asian American	3.72%	6.45%	57.62	Underutilization *
Hispanic American	4.55%	9.47%	48.06	Underutilization *
Native American	0.02%	0.48%	4.98	Underutilization *
Nonminority Women	2.15%	13.68%	15.73	Underutilization *
Nonminority Firms	89.24%	66.19%	134.81	Overutilization

Source: Vendor utilization and availability for the state of Texas covering the period from September 1, 2005 through August 31, 2008.
[1] The percentage of dollars is taken from the prime utilization exhibit previously shown.
[2] The percentage of available vendors is taken from the availability exhibit previously shown.
[3] The disparity index is the ratio of % utilization to % availability times 100.
* An asterisk is used to indicate a substantial level of disparity - index below 80.00.

EXHIBIT 4-13(f)
STATE OF TEXAS
OTHER SERVICES
DISPARITY ANALYSIS OF PRIME CONTRACTORS
BASED ON U.S. CENSUS SURVEY OF BUSINESS OWNERS DATA, SPECIAL TABULATION OTHER SERVICES AND OTHER PROFESSIONAL SERVICES
FISCAL YEARS 2006 THROUGH 2008

Business Owner Classification	% of Dollars[1]	% of Available Firms[2]	Disparity Index[3]	Disparate Impact of Utilization	
Fiscal Year 2006					
African American	1.48%	17.57%	8.44	Underutilization	*
Asian American	1.43%	3.72%	38.43	Underutilization	*
Hispanic American	2.07%	11.53%	17.94	Underutilization	*
Native American	0.19%	0.33%	59.12	Underutilization	*
Nonminority Women	5.53%	16.47%	33.60	Underutilization	*
Nonminority Firms	89.29%	50.38%	177.23	Overutilization	
Fiscal Year 2007					
African American	1.03%	17.57%	5.87	Underutilization	*
Asian American	1.44%	3.72%	38.79	Underutilization	*
Hispanic American	2.34%	11.53%	20.28	Underutilization	*
Native American	0.16%	0.33%	49.42	Underutilization	*
Nonminority Women	5.44%	16.47%	33.05	Underutilization	*
Nonminority Firms	89.58%	50.38%	177.81	Overutilization	
Fiscal Year 2008					
African American	0.97%	17.57%	5.54	Underutilization	*
Asian American	1.58%	3.72%	42.41	Underutilization	*
Hispanic American	1.92%	11.53%	16.68	Underutilization	*
Native American	0.23%	0.33%	68.71	Underutilization	*
Nonminority Women	9.18%	16.47%	55.76	Underutilization	*
Nonminority Firms	89.23%	50.38%	177.12	Overutilization	
All Fiscal Years					
African American	1.15%	17.57%	6.53	Underutilization	*
Asian American	1.49%	3.72%	39.98	Underutilization	*
Hispanic American	2.11%	11.53%	18.29	Underutilization	*
Native American	0.20%	0.33%	59.25	Underutilization	*
Nonminority Women	5.69%	16.47%	34.57	Underutilization	*
Nonminority Firms	89.37%	50.38%	177.39	Overutilization	

Source: Vendor utilization and availability for the state of Texas covering the period from September 1, 2005 through August 31, 2008.
[1] The percentage of dollars is taken from the prime utilization exhibit previously shown.
[2] The percentage of available vendors is taken from the availability exhibit previously shown.
[3] The disparity index is the ratio of % utilization to % availability times 100.
* An asterisk is used to indicate a substantial level of disparity - index below 80.00.

EXHIBIT 4-13(g)
STATE OF TEXAS
COMMODITIES
DISPARITY ANALYSIS OF PRIME CONTRACTORS
BASED ON U.S. CENSUS SURVEY OF BUSINESS OWNERS DATA, WHOLESALE AND RETAIL TRADE
FISCAL YEARS 2006 THROUGH 2008

Business Owner Classification	% of Dollars[1]	% of Available Firms[2]	Disparity Index[3]	Disparate Impact of Utilization	
Fiscal Year 2006					
African American	1.15%	0.77%	148.85	Overutilization	
Asian American	2.08%	11.03%	18.88	Underutilization	*
Hispanic American	2.05%	8.77%	23.37	Underutilization	*
Native American	0.08%	0.00%	0.00	N/A	*
Nonminority Women	5.68%	17.18%	33.03	Underutilization	*
Nonminority Firms	88.97%	62.24%	142.93	Overutilization	
Fiscal Year 2007					
African American	1.36%	0.77%	177.06	Overutilization	
Asian American	1.55%	11.03%	14.08	Underutilization	*
Hispanic American	2.86%	8.77%	32.60	Underutilization	*
Native American	0.04%	0.00%	0.00	N/A	*
Nonminority Women	6.17%	17.18%	35.94	Underutilization	*
Nonminority Firms	88.01%	62.24%	141.40	Overutilization	
Fiscal Year 2008					
African American	1.33%	0.77%	172.19	Overutilization	
Asian American	1.47%	11.03%	13.35	Underutilization	*
Hispanic American	3.09%	8.77%	35.23	Underutilization	*
Native American	0.18%	0.00%	0.00	N/A	*
Nonminority Women	6.53%	17.18%	38.02	Underutilization	*
Nonminority Firms	87.40%	62.24%	140.41	Overutilization	
All Fiscal Years					
African American	1.28%	0.77%	166.76	Overutilization	
Asian American	1.68%	11.03%	15.26	Underutilization	*
Hispanic American	2.70%	8.77%	30.78	Underutilization	*
Native American	0.10%	0.00%	0.00	N/A	*
Nonminority Women	6.16%	17.18%	35.83	Underutilization	*
Nonminority Firms	88.07%	62.24%	141.50	Overutilization	

Source: Vendor utilization and availability for the state of Texas covering the period from September 1, 2005 through August 31, 2008.
[1] The percentage of dollars is taken from the prime utilization exhibit previously shown.
[2] The percentage of available vendors is taken from the availability exhibit previously shown.
[3] The disparity index is the ratio of % utilization to % availability times 100.
* An asterisk is used to indicate a substantial level of disparity - index below 80.00.

4.5.3 Disparity in TxDOT Prime Contracting

The use of prequalified bidders provides different disparity results. The TxDOT heavy construction was almost 41 percent of the state prime contracting spending. However, only 39 HUB-DBEs bid on TxDOT prime contracts over the study period. **Exhibit 4-14** shows only firms owned by Hispanic Americans were underutilized when prequalified bidders were used as the source of availability.

EXHIBIT 4-14
STATE OF TEXAS
TEXAS DEPARTMENT OF TRANSPORTATION
HEAVY CONSTRUCTION
DISPARITY ANALYSIS OF PRIME CONTRACTORS
BASED ON TXDOT PREQUALIFIED BIDDER DATA
FISCAL YEARS 2006 THROUGH 2008

Business Owner Classification	% of Dollars[1]	% of Available Firms[2]	Disparity Index[3]	Disparate Impact of Utilization	
Fiscal Year 2006					
African Americans	0.00%	0.68%	0.00	Underutilization	*
Asian Americans	0.06%	0.45%	12.54	Underutilization	*
Hispanic Americans	1.19%	6.32%	18.82	Underutilization	*
Native Americans	0.00%	0.45%	0.00	Underutilization	*
Nonminority Women	1.10%	1.81%	61.00	Underutilization	*
Nonminority Firms	97.63%	90.29%	108.12	Overutilization	
Fiscal Year 2007					
African Americans	0.03%	0.68%	5.16	Underutilization	*
Asian Americans	0.05%	0.45%	10.63	Underutilization	*
Hispanic Americans	1.25%	6.32%	19.71	Underutilization	*
Native Americans	0.01%	0.45%	1.58	Underutilization	*
Nonminority Women	1.12%	1.81%	62.03	Underutilization	*
Nonminority Firms	97.54%	90.29%	108.03	Overutilization	
Fiscal Year 2008					
African Americans	0.04%	0.68%	6.17	Underutilization	*
Asian Americans	0.12%	0.45%	26.08	Underutilization	*
Hispanic Americans	1.28%	6.32%	20.25	Underutilization	*
Native Americans	0.01%	0.45%	1.18	Underutilization	*
Nonminority Women	0.00%	1.81%	0.08	Underutilization	*
Nonminority Firms	98.55%	90.29%	109.15	Overutilization	
All Fiscal Years					
African Americans	0.03%	0.68%	4.89	Underutilization	*
Asian Americans	0.07%	0.45%	16.31	Underutilization	*
Hispanic Americans	1.24%	6.32%	19.59	Underutilization	*
Native Americans	0.01%	0.45%	1.16	Underutilization	*
Nonminority Women	0.75%	1.81%	41.48	Underutilization	*
Nonminority Firms	97.90%	90.29%	108.43	Overutilization	

Source: Vendor utilization and availability for the state of Texas covering the period from September 1, 2005 through August 31, 2008.
[1] The percentage of dollars is taken from the prime utilization exhibit previously shown.
[2] The percentage of available vendors is taken from the availability exhibit previously shown.
[3] The disparity index is the ratio of % utilization to % availability times 100.
*An asterisk is used to indicate a substantial level of disparity - index below 80.00.

4.6 Capacity Evidence

This section presents evidence on HUB capacity from the 2009 MGT disparity study telephone survey (telephone survey) and the U.S. Small Business Administration (SBA) Central Contract Registry (CCR). Capacity is one of the sources of disparities in contracting. **Exhibit 4-14** shows capacity is a significant part of the explanation of disparity in heavy construction, since there was limited disparity when prequalified bidders were used rather than census data to estimate business availability.

4.6.1 Years of Experience

Exhibit 4-15 shows findings from the telephone survey on owner's years of experience. Firms owned by nonminority males had more years of owner's experience. As far as nonminority male-owned firms, approximately 64 percent (151 nonminority male vendors) had been in business more than twenty years. At the same time approximately 78 percent (553 M/WBE vendors) of M/WBE respondents have been in business more than ten years.

EXHIBIT 4-15
STATE OF TEXAS
MGT DISPARITY STUDY TELEPHONE SURVEY 2009
REPORTED OWNER YEARS OF EXPERIENCE
BY M/WBE AND NON-M/WBE CLASSIFICATION

Q8 Years Experience Owner		Total M/WBE	Non-M/WBE Nonminority Male
0-5	**Count**	62	**7**
	Column %	8.70%	3.00%
6-10	**Count**	95	**13**
	Column %	13.30%	5.50%
11-15	**Count**	105	**24**
	Column %	14.70%	10.20%
16-20	**Count**	132	**28**
	Column %	18.40%	11.90%
21-25	**Count**	98	**32**
	Column %	13.70%	13.60%
Greater than 25	**Count**	218	**119**
	Column %	30.40%	50.40%

Source: 2009 MGT of America, Inc. Disparity Study Telephone Survey

4.6.2 Number of Employees

Exhibit 4-16 shows data from the telephone survey on the number of employees of surveyed respondents. The bulk of firms in the survey were considered to be small firms, based on the number of employees. Three quarters (74.9%) of M/WBEs had less than 10 employees and half (50.4%) of the firms owned by nonminority males had less than 10 employees. Less than 2 percent (1.4%) of M/WBEs had more than 100 employees and about 12.7 percent of firms owned by nonminority males had more than 100 employees. Less than 2 percent of the M/WBEs in the SBA and CCR list had more than 100 employees.

EXHIBIT 4-16
STATE OF TEXAS
MGT DISPARITY STUDY TELEPHONE SURVEY 2009
REPORTED NUMBER OF EMPLOYEES
BY M/WBE AND NON-M/WBE CLASSIFICATION

Q9 Number of Employees			Non-M/WBE
		Total M/WBE	Nonminority Male
0-10	Count	536	119
	Column %	74.90%	50.40%
11-25	Count	107	42
	Column %	14.90%	17.80%
26-50	Count	41	32
	Column %	5.70%	13.60%
51-100	Count	18	10
	Column %	2.50%	4.20%
Great than 100	Count	10	30
	Column %	1.40%	12.70%

Source: 2009 MGT of America, Inc. Disparity Study Telephone Survey

4.6.3 Gross Revenue

Exhibit 4-17 shows data from the telephone survey on the gross revenue of survey respondents. Again most M/WBEs in the survey were considered to be small firms, based on annual gross revenue. Over 52.1 percent (373 M/WBE firms) of M/WBE surveyed respondents had revenue less than $500,000. Less than than 10 percent (9.6%) of M/WBEs in the survey had revenue in excess of $3 million, at the same time more 62 percent of state projects involved payments to vendors of over $3 million per year. It is worth observing that in the SBA and CCR list there are 2,561 M/WBEs in the state of Texas with revenue in excess of $3 million, 14.41 percent of the total number of M/WBEs on the SBA list.[14]

EXHIBIT 4-17
STATE OF TEXAS
MGT DISPARITY STUDY TELEPHONE SURVEY 2009
REPORTED GROSS REVENUE
BY M/WBE AND NON-M/WBE CLASSIFICATION

Gross Revenues - 2007			Non-M/WBE
		Total MWBE	Nonminority Male
Up to $50,000	Count	101	7
	Column %	14.10%	3.00%
$50,001 to $100,000	Count	86	7
	Column %	12.00%	3.00%
$100,001 to $250,000	Count	126	20
	Column %	17.60%	8.50%
$250,001 to $500,000	Count	60	19
	Column %	8.40%	8.10%
$500,001 to $1,000,000	Count	84	24
	Column %	11.70%	10.20%
$1,000,001 to $3,000,000	Count	114	43
	Column %	15.90%	18.20%
$3,000,001 to $5,000,000	Count	31	25
	Column %	4.30%	10.60%
$5,000,001 to $10,000,000	Count	15	24
	Column %	2.10%	10.20%
Over $10 million	Count	23	33
	Column %	3.20%	14.00%

Source: 2009 MGT of America, Inc. Disparity Study Telephone Survey

[14] Dsbs.sba.gov.

4.6.4 Bonding Capacity

Exhibit 4-20 shows data from the survey on the bonding capacity of survey respondents. Forty-two M/WBEs in the survey reported aggregate bonding capacity in excess of $1 million. Thirty-three M/WBEs reported single project bonding capacity in excess of $1 million. It is worth observing that in the SBA and CCR there are 494 firms (456 in construction) with aggregate bonding capacity in excess of $1 million located in the state Texas, and 440 firms (406 in construction) with single project bonding capacity in excess of $ 1 million.[15] There are 171 M/WBEs on the SBA and CCR list with a single project bonding capacity in excess of $5 million in 2009.

EXHIBIT 4-18
STATE OF TEXAS
MGT DISPARITY STUDY TELEPHONE SURVEY 2009
REPORTED BONDING CAPACITY
BY M/WBE AND NON-M/WBE CLASSIFICATION

Bonding Limits		Current Aggregate Bonding Limit	Single Project
		Total M/WBE	Total MWBE
Below $100,000	Count	22	22
	Column %	14.80%	14.80%
$100,001 to $250,000	Count	19	21
	Column %	12.80%	14.10%
$250,001 to $500,000	Count	24	24
	Column %	16.10%	16.10%
$500,001 to $1 million	Count	23	17
	Column %	15.40%	11.40%
$1,000,001 to $1,500,000	Count	7	13
	Column %	4.70%	8.70%
$1,500,001 to $3 million	Count	15	6
	Column %	10.10%	4.00%
$3 million to $5 million	Count	7	7
	Column %	4.70%	4.70%
Over $5 million	Count	13	7
	Column %	8.70%	4.70%

Source: 2009 MGT of America, Inc. Disparity Study Telephone Survey

[15] Dsbs.sba.gov.

4.7 Conclusions

State prime spending with HUBs is heavily concentrated in a few procurement areas and object codes. While there were substantial disparities in most procurement areas for prime contracting when measured by U.S. Census SMOBE/SWOBE data, the availability source used in the 1994 Texas Disparity Study, this disparity is generally eliminated when prequalified bidders was used as the source of availability. Statistical controls for capacity are presented in **Chapter 6.0**.